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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,408

04/14/2006

Mu Yeong LEE

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52706

7590

09/30/2008

IPLA P.A.

3580 WILSHIRE BLVD.

17TH FLOOR

LOS ANGELES, CA 90010

EXAMINER

SANDERSON, JOSEPH W

ART UNIT

PAPER NUMBER

3644

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DELIVERY MODE

09/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,408	Applicant(s) LEE, MU YEONG	
	Examiner Joseph W. Sanderson	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/14/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The specification and abstract appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.
4. The disclosure is objected to because of the following informalities:
Page 4, line 17, "preferably" should be capitalized.
Appropriate correction is required.

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Claim Objections

5. Claims 2 and 4 are objected to because of the following informalities:

Lines 12 and 10, respectively, --preventing-- or an equivalent should precede “water in the water tank(s);”

Claim 4, line 6, “both” should be removed.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. The following is a quotation of the fourth paragraph of 35 U.S.C. 112:

Subject to the following paragraph, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

8. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

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Claim 1 cites "the peripheral surface of a top end portion of the water tank" in line 18, however if it unclear if this is the same top end of the tank as cited in line 15 or an alternative end being newly defined as a top end.

Similarly in claim 2, lines 23-24.

Claim 3 recites limitations already in parent claim 2, though only requiring at least two water tanks to be interconnected by the passages. However, claim 2 requires at least three tanks to be connected by the passages, thereby allowing a device to infringe on the limitations of claim 3 without infringing upon parent claim 2.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

It should be noted that the method of forming the structure cited in claim 1 using a single panel renders the claim a product-by-process claim. "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the

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claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113.

10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Stout (US 3 095 853).

Stout discloses a fish bowl with a curved surface, comprising:

a generally cylindrical water tank (as seen in Fig 8) made of a transparent material (40 is made of glass) and formed by bonding a single panel at both side end portions thereof for forming a predetermined space portion therein (the end structure is the substantially the same);

a bottom panel (57) bonded to a peripheral bottom end of the water tank for preventing water in the water tank from leaking outside;

a sealing material (mastic is applied to all joints) applied to the connected portion between the both side end portions of the panel of the water tank and to the connected portion between the peripheral bottom end of the water tank and the edge portion of the bottom panel, for preventing leakage of water in the water tank; and

a top plate (44) mounted on a peripheral top end of the water tank, for forming the top surface of a kind of table (the top is flat, just as a standard table), the top plate having a plurality of seating protrusions (49 and 50) protruded downwardly from the underneath surface thereof for allowing the outer peripheral surface of a top end portion of the water tank being in tight contact with the inner surfaces of the seating protrusions upon the coupling of the top plate to the water tank (40 is aligned on the inside of and held in place by 49 and 50).

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Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stout in view of Linscott (US D452 352).

The discussion above regarding claim 1 is relied upon for structure common to the claims.

Stout discloses an aquarium as discussed above, but does not render multiple aquariums connected to each other via passages.

Linscott discloses a plurality of aquariums connected via passage panels.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Stout to use multiple aquariums and connect them with passages as taught by Linscott for the well-known predictable advantage of creating a larger environment for the fish dwelling inside.

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dinnerstein (US 3 893 421).

Regarding independent claim 4:

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Dinnerstein discloses a fish bowl with a curved surface, comprising:

a water tank (as partially seen in Fig 3) made of a transparent material (glass) and having an outwardly concave curve or an inwardly convex curve (the tank forms a rectangular enclosed space, thus providing the outward concave shape by the corners), the water tank having a pair of first panels (50; one not shown) provided to form the front and back surfaces thereof and a pair of second panels (48; one not shown) connected at opposed side end portions of each of the pair of first panels, for defining a predetermined space portion within the first and second panels;

a bottom panel (36) bonded to a peripheral bottom end of the water tank for preventing water in the water tank from leaking outside;

a sealing material (as seen being applied in Figs 3 and 7) applied to the connected portions between the first panels and the second panels and to the connected portion between the peripheral bottom end of the water tank and the edge portion of the bottom panel, for preventing water in the water tank from leaking outside; and a cover (10) detachably (i.e. capable of being detached) mounted on the top of the water tank and having an upwardly concave curved surface or a downwardly convex curved surface (around the sidewalls).

Dinnerstein discloses the cover as polystyrene, but does not specifically disclose it as transparent polystyrene.

The examiner takes Official Notice that polystyrene is common in transparent form (CD cases, plastic utensils, etc.).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Dinnerstein to use a transparent cover as the examiner

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takes Official Notice that transparent polystyrene is well-known in the art, and it be a matter of design choice to choose any specific color of such.

14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stout (US 3 095 853).

Stout discloses a fish bowl with a curved surface, comprising:

a water tank (as seen in Fig 1) made of a transparent material (glass) and having an outwardly concave curve or an inwardly convex curve (the tank forms a rectangular enclosed space, thus providing the outward convex shape at the corners), the water tank having a pair of first panels (30) provided to form the front and back surfaces thereof and a pair of second panels (29) connected at opposed side end portions of each of the pair of first panels, for defining a predetermined space portion within the first and second panels;

a bottom panel (31) bonded to a peripheral bottom end of the water tank for preventing water in the water tank from leaking outside;

a sealing material (mastic is applied to all joints) applied to the connected portions between the first panels and the second panels and to the connected portion between the peripheral bottom end of the water tank and the edge portion of the bottom panel, for preventing water in the water tank from leaking outside; and a cover (17) detachably (i.e. capable of being detached) mounted on the top of the water tank and having an upwardly concave curved surface or a downwardly convex curved surface.

Stout does not disclose the cover as being made of a transparent material.

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Stout teaches an aquarium cover made of transparent glass (60).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Stout to use a transparent cover as taught by Stout for the well-known predictable advantage of creating a more aesthetically pleasing aquarium.

15. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stout ('853) in view of Puckett (US 3 854 450).

The discussion above regarding claim 4 is relied upon.

Stout as modified renders an aquarium having a cover with a lighting lamp (col 3, line 74 – col 4, line 4 discusses how to vent the heat of the un-depicted lamps), but does not disclose a reflection plate positioned just over the lamp.

Puckett discloses an aquarium with a reflection plate (49) mounted next to a lamp (48) to maximize reflection of the light rays into the aquarium tank body (col 3, lines 60-64).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified Stout to use a reflection plate for the well-known predictable advantage of maximizing the light directed into the tank.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph W. Sanderson whose telephone number is (571)272-0474.

The examiner can normally be reached on M-F 7:00 am - 2:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael R. Mansen can be reached on (571)272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3644

Joseph W. Sanderson

JWS